

REMARKS

This Response is submitted in response to the Office Action dated July 29, 2008. No claim amendments are made.

Claims 118-120, 122, 123, 128, 129 and 1333-138 stand rejected under 35 § USC 103 (a) as allegedly being unpatentable over Miwa et al (July 25, 2002) of record in view of US Patent No. 5,763,218.

This rejection was reinstated based on an alleged defect concerning the § 1.131 Affidavit. Particularly, the Examiner finds it inadequate based on the failure of the Affidavit to state that the invention was made in the United States. Applicants respectfully note that this Reply contains a second 131 Affidavit which is signed by all of the inventors and which clearly states that the invention was conceived and reduced to practice in the United States. Applicants further note that this Affidavit is unexecuted and the executed version will be provided shortly and will render the rejection moot.

Based thereon, Applicants respectfully submit that the submitted § 1.131 Affidavit should be accepted and therefore the prior art rejection based on Miwa in view of the Fuji et al reference is improper and therefore should be vacated.

Claims 130-132, 139 and 140 also stand rejected under 35 USC § 103 (a) as allegedly being unpatentable over Miwa et al (July 25, 2002) of record in view of US Patent No. 5,763,218 and further in view of US Patent No. 6,004,808 by Negelescu et al. .

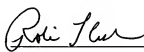
This rejection also was reinstated based on the same alleged defect concerning the § 1.131 Affidavit. Particularly, the Examiner finds it insufficient based on the failure of the Affidavit by the inventors to explicitly state that the invention was made in the United States. Applicants again

respectfully note that this Reply is being submitted with a second § 131 Affidavit which is signed by all of the inventors and which clearly states that the invention was conceived and reduced to practice in the United States. Applicants note that this Affidavit is unexecuted and the executed version will be provided shortly and will render the rejection moot.

Based thereon, Applicants respectfully submit that the submitted § 131 Affidavit should be accepted and therefore the prior art rejection based on Miwa in view of the Fuji et al and the Negulescu et al. references is improper and therefore should be vacated.

This response is being timely submitted and believe that no additional fees are due with the filing hereof. However, in the event a variance exist in the calculations by the U.S. PTO, Applicants hereby authorize the granting of any extension of time, including the appropriate fees as required to enter this response. Please charge or credit any variance of the amount enclosed to our Deposit Account Number 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS LLP

By: 
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Dated: **October 29, 2008**

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RLT/dkt

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application No.: 10/628,464

Filed: July 29, 2003

Attorney Docket No.: 67824.426001

Confirmation No. 4703

Art Unit: 1646

Examiner: Howard, Zachary C.

Title: IDENTIFICATION OF A NOVEL BITTER TASTE RECEPTOR, T2R76

(SECOND) § 1.131 AFFIDAVIT BY THE INVENTORS

We, Huxian Tang, and Alexey Pronin declare and state as follows:

- (1) That we are inventors of the above-identified application.
- (2) That we conceived and reduced our invention entirely in the United States.
- (3) That in that capacity we jointly prepared and executed an invention

disclosure relating to the above-identified patent application. This invention disclosure was attached as an Exhibit to our prior Affidavit and describes inventive activities which were conducted entirely in the United States where the subject Assignee, Senomyx Inc. is located.

- (3) That we reviewed the Office Action dated September 6, 2006 in the above-identified patent application relating to the hT2R76 a novel member of the T2R taste receptor family.

(4) That based thereon we understand that the Examiner has concluded that the claims are anticipated or rendered obvious by a PCT application W0/057309, entitled "Novel G protein-Coupled Receptor Protein and DNA Thereof. This PCT patent application has a publication date of July 25, 2002 which predates the earliest priority date of the instant patent application which claims priority to and incorporates by reference in its entirety provisional patent application Serial No. 60/398,727 filed on July 29, 2002.

(5) That this reference is not prior art to the subject invention as evidenced by the invention disclosure executed by all of the inventors of this patent application prior to July 25, 2002 which document establishes unequivocally that the present inventors were in possession of the claimed invention prior to the publication date of W01057309. Particularly this invention disclosure contains the hT2R76 nucleic acid sequence and corresponding polypeptide sequence as well as disclosing its identity as a bitter taste receptor and its use in assays for identifying bitter taste modulators as claimed in the patent application at issue herein. [The undersigned note that this invention disclosure has been redacted in several places to protect some confidential information of the present Assignee as permitted but that the execution dates of the signatures contained thereon clearly establish that Senomyx's discovery of a new bitter receptor hT2R76 as claimed herein predates the publication date of the cited PCT reference.]

(6) That based thereon, the undersigned respectfully submit that the rejection based on PCT WO 02/057309 should be withdrawn as this document is not available as prior art against the claimed invention.

(7) All statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like may jeopardize the validity of the application or any patent issuing thereon.

Date

Huixian Tang

Alexey Pronin